



Operation Backfire: A Summary

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That said—in times like these, can a decent person feel anything but contempt for the agents and abettors of the FBI?

Much of this article has been compiled from other writings in the public domain.

On December 7, 2005, the FBI's "Operation Backfire" against environmental and animal liberation movements revealed its public face. That day, seven people living in four different states—Chelsea Gerlach, Darren Thurston, William Rodgers, Kendall Tankersley (Sarah Kendall Harvey), Kevin Tubbs, Daniel McGowan, and Stanislas Meyerhoff—were arrested in connection with a variety of sabotage actions. Many of these actions were claimed by the Earth Liberation Front (ELF) or the Animal Liberation Front (ALF). The targeted acts of sabotage included attacks against wilderness "management" programs, meat and lumber companies, and sites allegedly linked to genetic engineering and ecocidal development in general. None of this sabotage caused physical injury to any human being or other animal, although several of the actions caused significant economic damage to industry. Honoring its commitment to defending the property of a select few above any concern for the welfare of living things, the US government has labeled affinity groups operating under the banners of the ALF or ELF as America's number one domestic "terror" threat.

On the same day as the initial arrests took place, several people across the Pacific Northwest were subpoenaed to testify before a grand jury to be held in Eugene, Oregon. Canadian citizen Darren Thurston was taken into custody and served with a grand jury

subpoena. He was subsequently indicted for federal conspiracy charges and charges from the arson of a horse corral near Susanville, California. Within days of the first arrests, it was revealed that a paid informant, Jacob Ferguson, had provided federal investigators and prosecutors with information to support the government indictments. Ferguson is a notorious "has-been" in the community of Eugene, Oregon, and suffers from a long history of heroin abuse. Almost immediately following his arrest and interrogation, Stanislas Meyerhoff agreed to be a federal cooperating witness. He stated to the press soon afterwards: "I hope, I pray the courts will be merciful with those who renounced these crimes and moved on to be students and professionals." Meyerhoff's decision to turn informant was unfortunately not the last of these cases. Information offered to the authorities led not only to the caging of several others, but may have contributed to further tragedy.

Early the morning of December 22, William Rodgers was found dead in his Flagstaff, Arizona cell, an apparent suicide. Prior to his arrest, Rodgers worked at the Catalyst Bookstore and Infoshop in Prescott, Arizona. He was known for his longtime participation in grassroots ecological struggles throughout the United States. A note attributed to Rodgers from the night of his death reads:

"To my friends and supporters to help them make sense of all these events that have happened so quickly:

"Certain human cultures have been waging war against the Earth for millennia. I chose to fight on the side of bears, mountain lions, skunks, bats, saguaros, cliff rose and all things wild. I am just the most recent casualty in that war. But tonight I have made a jail break—I am returning home, to the Earth, to the place of my origins.

"Bill, 12/21/05 (the winter solstice)"

On January 20, 2006, federal prosecutors and US Attorney General Alberto Gonzales announced a 65-count indictment against 11 individuals. The indictment's charges related to 17 different incidents of sabotage in Oregon, Washington and California. The indictment alleged that those accused were members of a fictional network, referred to in the indictments as "The Family," and that they had conspired to commit several acts of arson. The government has consistently tried to portray the defendants as a militaristic or cultish grouping, yet all available documentation instead points to informal and horizontal organization, in the situations where coordination existed at all.

The new indictment charged various defendants with arson, attempted arson, and using and carrying a destructive device. The destructive device charge carries a 30-year mandatory

sentence, with a mandatory life sentence for a second conviction of this charge. In addition to using informants, the federal government has threatened life sentences for property crimes in order to secure plea deals in all of these cases. In this way, significant pressure has been applied to defendants. In addition to the seven people arrested on December 7, the Oregon indictment also named Jonathan Paul, Suzanne Savoie, Joseph Dibee, Rebecca Rubin (a Canadian citizen), and Josephine Overaker. Paul was arrested in Oregon a few days before the indictment was announced, and Savoie turned herself in soon after Paul's arrest. Dibee, Rubin and Overaker are believed to be out of the country.

In the weeks that followed, the government coerced and intimidated the defendants with various threats—especially life in prison. Five individuals were then revealed as "confidential sources" for the government's case. Subsequently, on February 23, Nathan Fraser Block and Joyanna L. Zacher were arrested in Olympia, Washington. The government issued a new indictment on March 15 which included Block and Zacher, who were held in custody and facing life plus 1,115 years in prison for their roles in two separate arsons. The government arraigned Block, Zacher, McGowan and Paul on yet another 65-count superseding indictment on June 28.

On April 6, before the District of Oregon superseding indictment, California issued indictments in connection with the 2001 horse corral fire near Susanville. Justin Solondz was indicted by the federal court in Sacramento, but he currently has not been located and is not in custody. Also indicted for the corral fire were Darren Thurston (whose plea on this charge was integrated into his general District of Oregon deal as a result of cooperation), Joseph Dibee, and Rebecca Rubin.

On July 20 and 21, Thurston, Tubbs, Tankersley, Meyerhoff, Gerlach, and Savoie pled guilty to a variety of conspiracy, arson, and attempted arson charges in U.S. District Court in Eugene. Federal prosecutors recommended that Thurston be sentenced to 37 months imprisonment; Tubbs, 168 months; Tankersley, 51 months; Meyerhoff, 188 months; Gerlach, 120 months; and Savoie, 63 months. All remaining charges against these defendants will be waived, and no additional charges will be brought against them in other districts, if they fully and completely cooperate with the government. The presiding judge granted motions by the cooperating defendants' attorneys to seal all plea petitions, cooperation agreements, and the transcripts of the public court hearings, thus making them unavailable for public scrutiny. On August 22, upon the motion of the non-cooper-

ating defendants, this judge granted a motion to unseal these documents but for the paragraphs regarding cooperation.

During the two days of plea deal hearings, the government announced that it would pursue upward enhancement of sentences for the six taking pleas, arguing that the federal anti-terrorism enhancement guidelines apply to their sentences as well. At the request of the federal government, Gerlach made a statement denouncing her actions at the conclusion of her plea proceeding. For the first time, the government disclosed new allegations at the hearings of Gerlach and Meyerhoff, indicating additional arson incidents occurred in Phoenix, Arizona, and the eastern district of Michigan, though neither was charged with these incidents. All six of the cooperating defendants are scheduled for hearings regarding sentencing on December 14, 2006, although this sentencing will most likely be postponed.

On May 18, a federal grand jury indicted Chelsea Gerlach, Stanislas Meyerhoff, Josephine Overaker and Rebecca Rubin for alleged involvement in the 1998 arson of the Vail ski resort. The Colorado federal court agreed to transfer these charges to Oregon where Gerlach and Meyerhoff have District of Oregon plea deals that incorporate their Colorado charges. On September 29, Gerlach and Meyerhoff

entered “guilty” pleas during their District of Oregon arraignment for Vail-related charges; neither Meyerhoff nor Gerlach are expected to serve additional time in prison as a consequence of these pleas.

On November 9, the remaining District of Oregon defendants Joyanna Zacher, Nathan Block, Daniel McGowan and Jonathan Paul entered a global resolution plea deal. (Note: Briana Waters is not indicted in Oregon. She is the only non-cooperating defendant in the Washington indictment and vigorously asserts her innocence.) Prior to their deals being entered, these four defendants dropped a request for production of possible National Security Agency wiretap discovery material in their cases. In these pleas, the four defendants agreed to accept responsibility for their own roles in environmentally motivated crimes but explicitly refused to identify, provide information on, or testify against others. Complete, non-redacted plea agreements for these four defendants are publicly available. Similarly to the others who have taken plea deals, a “terrorism” enhancement of up to 20 years will be argued during sentencing. A hearing to set a date for sentencing will take place on December 14.

During the November 9 plea hearing, Joyanna Zacher and Nathan Block each pled to one count of conspiracy, attempted arson, plus

multiple arson charges from actions at the Joe Romania Chevrolet car dealership in Eugene and the Jefferson Poplar tree farm. Daniel McGowan entered a plea for one conspiracy charge plus multiple charges of arson relating to sabotage at Superior Lumber and Jefferson Poplar. The government is recommending that these three be sentenced to 96 months in federal prison. Jonathan Paul pled to one count of conspiracy and one count of arson from property destruction at the Cavel West horsemeat slaughterhouse. He received a suggested sentence of 60 months in prison. During the hearing, McGowan made a statement to the court that “this plea agreement is very important to me because it allows me to accept full responsibility for my actions and at the same time remain true to my strongly held beliefs.” Outside the courthouse, Jonathan Paul’s sister Alexandra read a statement that Paul “will continue to be a person deeply committed to the betterment of our society and the elimination of animal and human suffering.”

As of this writing, Savoie, Tankersley, McGowan, and Paul are all out on release pre-sentencing. All other persons indicted in the District of Oregon who have been located are currently in custody.

Jeff Hogg and the Misuse of Grand Juries

The “Operation Backfire” prosecutions have made extensive use of grand juries as a repressive tool. Grand juries by law are authorized only to decide whether or not to bring new indictments, yet in many political contexts they are used either to intimidate whole communities, or for the expressly illegal purpose of gathering evidence while proceeding towards trial. Furthermore, grand juries are secret government investigative bodies that strip witnesses of their basic constitutional rights. Those subpoenaed to grand juries lose the right to remain silent, to hear any evidence presented against them, and even the right to an attorney in the grand jury room. A grand jury can jail people without convicting them of any crime or giving them a trial.

A significant number of people in several states have received grand jury subpoenas relating to Operation Backfire. Some have had their appearances cancelled, some have been intimidated into cooperation with the government, and some have flatly denied any knowledge of the incidents in question or refuted government assertions. Jeff Hogg, a nursing student and caregiver for disabled adults in Eugene, Oregon, spent almost half a year incarcerated for his principled stance against grand jury abuse—a stance which many locals consider heroic.

Jeff Hogg was subpoenaed to testify in front of a federal grand jury on May 18 in Eugene. Having refused to testify before this grand jury, Hogg was held in contempt by Judge Michael Hogan and sent to jail without having been charged with any crime. The unlawful grand jury was scheduled to expire on September 29, 2006, but days before Hogg was to regain his freedom, the federal government unbelievably extended the grand jury for six more months. Following the global resolution of the remaining District of Oregon cases, Hogg’s lawyer filed for the release of his client (a previous appeal, to the 9th Circuit Court of Appeals in San Francisco, had been unsuccessful.) On November 15, Hogg was released from the Josephine County jail in Grant’s Pass, Oregon, rejoining his partner and community.

Hogg commented shortly after release: “I’m happy to be free and not to have compromised my principles in the face of the abusive grand jury system.” The government continues to threaten Hogg with another subpoena and more jail time.

Washington Indictments

On March 30, Briana Waters was arrested in Seattle, Washington in connection with an alleged arson at the University of Washington Center for Urban Horticulture in 2001. Waters, a California resident, is a violin teacher and mother of a young child.

On May 10, Washington issued a superseding indictment. This indictment includes the destructive device charge, 18 U.S.C. § 924(c), a 30-year mandatory sentence, for Waters. The indictment also added Tubbs and Solondz as defendants (with Bill Rodgers' alleged participation) for the UW arson. Tubbs' Washington charges are waived as a result of his plea deal.

Other informants in this case include Jennifer Kolar, of Seattle, WA, and Lacey Phillabaum of Spokane, WA. On October 4, both Kolar and Phillabaum entered plea deals in the Western Washington US District Court, pleading guilty to conspiracy, arson, and destructive device charges in relation to the Urban Horticulture property damage. In addition, Kolar pled guilty to charges relating to an attempted arson against the Wray Gun Club, sponsors of a turkey shoot, whose Colorado business allegedly had incendiary devices placed nearby (the alleged devices failed to ignite); Kolar's Colorado charges were transferred to the Western Washington District

before the hearing. Charges against Kolar in relation to an alleged arson in Redmond, Oregon against a horsemeat processing plant will also be transferred to Washington federal court soon. During the October 4 hearing, Kolar received a suggested sentence of 5-7 years in federal prison despite facing a mandatory life sentence; Phillabaum, 3-5 years. Formal sentencing for Kolar and Phillabaum is currently scheduled for January 5, 2007. Both Kolar and Phillabaum were released without bail following their pleas. Both have been provided significant reductions in their recommended sentences as a result of cooperating with the federal government against the remaining non-cooperating defendants; Phillabaum and Kolar will be obliged to act as informants for the rest of their lives as a result of the plea deals.

Waters is on pretrial release. Her trial is scheduled for May 7, 2007. She staunchly maintains her innocence on all counts.

Operation Backfire and the Necessity of Solidarity: Some Thoughts

"These people need your help. You might not know them. They might not be part of any activist community. But they represent the heart of this movement and this struggle. Because they are the ones accused of actions that have become legendary and made into songs. They are the ones bearing the brunt of this struggles' resistance. They are the scapegoats for the Department of Justice. They are suffering for every act of defiance this movement has carried out under whatever banner. We owe it to these people to support them. We owe it to them to not be controlled by fear."

-Oregon political prisoner Jeffrey Luers, writing on the Backfire arrests, December 22, 2005.

"The Earth and Animal Liberation Fronts are the supposed targets of the government's 'green scare' tactics, but the real target is the population at large, anyone who could stand against our society's deadly trajectory. We're supposed to be more afraid of a thuggish government than of planetary ecological collapse. The ELF and ALF are not terrorist organizations. They are only ideas. If you've ever seen wild nature or animal life—including humans—as intrinsically wonderful, beauteous and meaningful, then consider yourself an ELF and an ALF member. The government realizes that it's only a small step from thought to action, so they target people indiscriminately."

"It's important to support the latest internees, not because they are "innocent" [...] but because we stick by our own. The 'green scare' defendants are people similar to us, who have concerns dear to all sane people. Our rulers, however, are absurd, money-sick and terroristic. It is these rulers who would jeopardize our planet for industry bucks and military might. Showing support for the defendants is ultimately an act of self-defense. It's part of a broader effort to make much needed changes in our society, while we still have some room for maneuver. [...] Our government—rather than thoughtful and compassionate people—should be put on trial."

-Anonymous poster, 2006

"Many have come to recognize that the fight against ecological destruction has many fronts, and that striking the enemy, while dangerous, is quite simple. Radical participation in social struggles, attacking structures of power, and rejecting compromise and reconciliation with those who are destroying our lives and our world, are the real cause for the state's fear. Thus they round up those on their watch-lists, hoping to make an example of them in order to frighten others into submission, to halt any attempts at solidarity for fear of being swept up as well, and to make us remember that the State is master of orchestrating violence."

-Anarchist journal A Murder of Crows, issue #1 (2006)

"In asking that punishment be mitigated, I think it is important to emphasize the intent of the defendants, which was not to cause damage to any human being, but to make a statement about an important social issue. In short, they are not criminals in the ordinary sense of the word. Their acts are acts of CIVIL disobedience, not CRIMINAL disobedience."

-Historian Howard Zinn, author of *A People's History of the United States*

Support the Defendants and Grand Jury Resisters!

Daniel McGowan, Jonathan Paul, Nathan Block and Joyanna Zacher have taken plea deals that do not involve informing against others. Joyanna and Nathan remain in jail pre-sentencing. Please continue to support these four, before and after formal sentencing:

Nathan Block #1663667 / Lane County Jail / 101 W 5th Ave. / Eugene, OR 97401
Joyanna Zacher #1662550 / Lane County Jail / 101 W 5th Ave / Eugene, OR 97401

Support group for Nathan and Joyanna: supportersofnathanandjoyanna@gmail.com

Daniel McGowan (Released on bail!)
Support group: FriendsofDanielMcG@yahoo.com; www.supportdaniel.org

Jonathan Paul (Released on bail!) Support group: friendsofjonathanpaul@yahoo.com

Briana Waters, non-cooperating defendant, Washington indictments (Released on court-ordered electronic monitoring)
Support group: www.supportbriana.org

Donations to help Grand Jury resister Jeff Hogg post-release may be sent to: Friends of Jeff Hogg / PO Box 12271 / Eugene, OR 97440 One good information resource on grand juries and resistance to them is at: www.fbiwitchhunt.com. This page also features information on Bay Area grand juries.

Keep Informed — More Online Resources

The following websites regularly feature updates on the "Operation Backfire" cases:
Green Scare: greenscare.org

North American Earth Liberation Prisoners Support Network: ecoprisoners.org

Civil Liberties Defense Center: cldc.org

Break the Chains blog: breakthechains.info
Bombs and Shields: bombsandshields.com
Portland Indymedia "Green Scare" page: <http://portland.indymedia.org/en/topic/greenscare/>

The National Lawyers Guild has established a hotline, **888-NLG-ECOLAW**, for individuals arrested or subpoenaed for offenses related to environmental or animal activism.



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